

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7899

JOHN S. BURDETTE,

Petitioner - Appellant,

versus

WARDEN RUSHTON; HENRY MCMASTER,

Respondents - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Henry F. Floyd, District Judge. (CA-04-1249-2-26)

Submitted: February 24, 2005

Decided: March 9, 2005

Before NIEMEYER, WILLIAMS, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

John S. Burdette, Appellant Pro Se. Donald John Zelenka, Chief Deputy Attorney General, Columbia, South Carolina, Jeffrey Alan Jacobs, OFFICE OF THE ATTORNEY GENERAL, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

John S. Burdette, a state prisoner, seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his petition filed under 28 U.S.C. § 2254 (2000). An appeal may not be taken from the final order in a § 2254 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue for claims addressed by a district court absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find both that the district court's assessment of his constitutional claims is debatable or wrong and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 338 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Burdette has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED